

TAB A

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OFFICE OF THE ZONING ADMINISTRATOR**

January 3, 2018

Samantha Mazo
Cozen O'Connor
1200 19th Street NW
Washington, DC 20036



**Re: 7700-7706 Georgia Avenue NW - Square 2957, Lots 0021 & 0810 (the "Property")
Development Options**

Dear Ms. Mazo,

This letter is in reference to the meeting you and your client had with my office on September 13, 2017 regarding your client's intended residential development at the Property (the "Project").

The Property is known as Lots 0021 and 810 in Square 2957 and has a total land area of 7,511 square feet. It is located mid-block of the 7700 block of Georgia Avenue between Shepherd Road to the south and Alaska Avenue to the north. The Property fronts on Georgia Avenue, and is bounded by a public alley to the rear.

The Property is located in the MU-4 Zone District, and all land abutting the Property is similarly zoned MU-4. A copy of the Zoning Map is attached here at Tab "A". The purpose of the MU-4 zone is to permit moderate-density, mixed-use development and to "[p]rovide facilities for shopping and business needs, *housing*, and mixed uses for large segments of the District of Columbia outside of the central core." See 11 DCMR § 400.3(b), emphasis added.

The Property is an irregularly-shaped lot that has street frontage on Georgia Avenue and access from the rear alley. The Property currently includes one vacant lot, and one lot that is improved with a two-story retail structure. The Property is bounded to the north and south by commercial uses.

The Project proposes two potential options with the same general design and footprint; the only difference is that one option provides 33 units and the other proposes 35 units. The Project would be attached to both adjacent properties and would provide sufficient on-site parking spaces and bike spaces.

In summary, at our meetings the PDRM review team found the following:

1100 4th Street, SW 3rd Floor Washington, D.C. 20024
Phone: (202) 442-4576 Fax: (202) 442-4871

The Project on the Property complies with the Zoning Regulations

As represented in the conceptual plans attached as Tab "B", the Project (either option) is a four-story, multiple-dwelling apartment house development ranging from 33 to 35 residential units, and the necessary bike and vehicular spaces. Resident amenity space will also be included in the Project. Please refer to Vehicle Parking and Bicycle Parking in the sections below for a more detailed explanation regarding parking requirements. Multiple dwelling uses are permitted as a matter-of-right in the MU-4 zone. *See*, Subtitle U § 512.1(a).

Height

Pursuant to Subtitle G § 403.1, the maximum permitted building height in the MU-4 zone is fifty feet. In accordance with Subtitle B § 307.1, the height for the Project will be measured from the top of the curb, projected from the center of the front property line along Georgia Avenue, to the top of the main parapet. As shown on Sheet SD3.0 of Tab "B", the Project height is approximately 49'-8". Therefore, the proposed Project complies with the building height requirement.

Penthouse Height

Under Subtitle G § 403.2, the maximum permitted penthouse height in the MU-4 Zone District is 12 feet, except 15 feet for penthouse mechanical space. This zone permits habitable penthouse uses in one story plus a mezzanine and a second story for mechanical space. As shown on Sheet SD3.0 of Tab "B", the Project proposes an approximately 10'-8"-tall habitable penthouse. Accordingly, the maximum height of the penthouse is permitted in the MU-4 zone.

Penthouse Setback

Subtitle C § 1502.1 (a) and (b) require a setback at 1:1 ratio from the front and rear building wall of the roof upon which it is located. As shown on Sheet SD2.0 of Tab "B", the proposed penthouse will be setback approximately 12' from the front and rear roof walls. No side penthouse setback is required from the adjacent property at Lot 811 because that lot is also zoned MU-4 and is a face on lot-line wall. Accordingly, the proposed penthouse setbacks satisfy the penthouse setback requirements of Subtitle C § 1502.1 (a), (b) and (c).

Floor Area Ratio (FAR)

Under Subtitle G § 402.1, the maximum permitted FAR for a building located in the MU-4 zone is 2.5 FAR, which can be increased to 3.0 FAR with Inclusionary Zoning ("IZ"). As will be discussed below, this Project is subject to the IZ requirements, and will provide the requisite IZ set aside; thus, this Project will obtain IZ bonus density. The Property has a total land area of 7,511 square feet. The Project proposes a maximum of 21,637 square feet of gross floor area ("GFA"), which constitutes an approximate 2.88 FAR. The FAR provided complies with the requirement for the MU-4 zone.

Pursuant to Subtitle C § 1503.1(c), penthouse habitable space with an FAR up to 0.4 does not contribute to the FAR permitted for the building. The proposed penthouse square footage for both development options is 3,004 s.f., which corresponds to a FAR of 0.4. Therefore, the proposed penthouse does not contribute to total FAR for the Project.

Notably, pursuant to Subtitle B § 100.2, GFA “shall not include *cellars*, exterior balconies that do not exceed a projection of six feet (6 ft.) beyond the exterior walls of the building, ***all projections beyond the lot line that may be allowed by other Municipal codes***, vent shafts, and pipe chase shafts above the ground floor, atriums above the ground floor, ramps on the ground floor leading down to areas of parking on a lower level;” (emphasis added). Thus, square footage in the cellar and any bay window projections shall not be counted toward the Project’s FAR.

Cellar

The Zoning Regulations define a cellar as the “portion of a story, the ceiling of which is less than four feet (4 ft.) above the adjacent finished grade.” Subtitle B §100.2. Moreover, the zoning regulations establish that Gross Floor Area “should not include cellars...” Subtitle B §100.2. As shown on the Sheet SD3.0, the below-grade level satisfies the definition of a cellar because the height of the ceiling is no more than 4’ above the adjacent finished grade. Habitable units are permitted in a cellar, and this office has approved window wells to allow light into those units. Window wells shall have a maximum depth of 4’ as measured from the exterior wall of the building to the interior wall of the window well.

Lot Occupancy

Under Subtitle G § 404.1, the maximum lot occupancy for a building located in the MU-4 zone is 60%, which can be increased to 75% with IZ. As discussed, the Project is eligible for the IZ bonus density. Lot occupancy is the “percentage of the total area of a lot that is occupied by the total building area of all buildings and structures on the lot.” The attached proposed plans show a maximum Project size of 5,632 square feet of land area, with a lot occupancy of approximately 75%. This lot occupancy complies with the requirement for the MU-4 zone.

Rear Yard

The property line between the Project and the alley is the rear lot line. Pursuant to Subtitle G § 405.2 a property in the MU-4 zone must provide a rear yard of 15 feet. As to where a lot abuts an alley, then the requirements of Subtitle G § 405.5(a)(1-2) apply, which read:

- (1) For that portion of the structure below a horizontal plane described in Subtitle G § 405.4 from the center line of the alley to the rear wall of the portion; and
- (2) For that portion of the structure above the horizontal plane described in Subtitle G § 405.4, from the rear lot line to the rear wall of that portion immediately above the plane.

In this case, the Project is providing a full 15-foot setback from the alley on all floors as shown on SD2.0. The provided rear yard complies with the requirement for the MU-4 zone.

Side Yard

Pursuant to Subtitle G § 406.1 “No side yard is required for a building or structure other than a detached single dwelling unit or semi-detached single dwelling unit; however, if a side yard is provided it shall be at least two inches (2 in.) wide for each one foot (1 ft.) of height of building but no less than five feet (5 ft.).” The Project provides no side yards. The provided side yard complies with the requirement for the MU-4 zone.

Courts

The Project proposes no courts of any kind. The “Option 2” design of the Project does propose a light well starting in the cellar and running to the top of the building. The light well will have a trellis at the top and, accordingly, shall not be considered a closed court. The light well shall be counted once towards FAR only on the ground floor level, and also will contribute to lot occupancy.

Vehicle Parking

Under Subtitle C § 701.5, a residential, multiple dwelling requires 1 space per 3 units in excess of 4 units. The Property is located within 0.25 miles of Metrobus Route 79, which is identified as a “Priority Corridor Network” Metrobus Route under Subtitle C § 702.1(c)(1). Further, as required by Subtitle C § 702.1(c), the District’s Department of Transportation (“DDOT”) has issued written confirmation that the Property is located on a block that does not participate in the RPP program. An e-mail from DDOT is attached hereto at “Tab C”. Accordingly, the Project is entitled to the 50% transit reduction pursuant to Subtitle C § 702.1(c)(1).¹

As represented in the attached plans, the Project proposes either 33 or 35 units, which would normally require a minimum of 10 parking spaces for the residential use. As a result of the 50% reduction noted above, the Project is required to provide five (5) parking spaces. The Project meets and actually exceeds the minimum parking requirement because nine (9) parking spaces are provided.

While not shown on the attached plan, a minimum of 50% of a building’s parking requirement must be full-sized 9’x18’ parking spaces. The remainder may consist of compact 8’x16’ parking spaces. Your client confirmed that the parking spaces will meet these size requirements.

Pursuant to Subtitle C § 714.1, screening is required for any external surface parking spaces, subject to exceptions not applicable in this case. Subtitle C § 714.2 provides the methods by which the screening requirements can be met, and my office finds that these are satisfied by the provision of a roll-up door.

¹ DDOT has confirmed that while the Property could be eligible for RPP, such designation could not be applied because of the existence of metered parking in front of the building. See Exhibit “C”.

Bicycle Parking

Pursuant to Subtitle C § 802.1, residential apartments require one long-term bicycle parking space for every three dwelling units and one (1) short-term bicycle parking space for every 20 dwelling units. The Project proposes 33-35 units and, accordingly, is required to provide a maximum of 11 long-term bicycle parking spaces and one short-term bicycle parking space.

The Project provides the necessary long-term bicycle parking spaces in a dedicated bike room on the first floor. The Project will also provide one (1) short-term bicycle parking space, which may be located within the building or in public space with DDOT approval. Therefore, the Project will provide the necessary bike spaces on site, and thus comply with the bicycle parking requirement.

Loading

Pursuant to Subtitle C § 901.1, a loading berth and a service/delivery area is required for residential developments with 50 or more dwelling units. The Project proposes 33-35 dwelling units. Accordingly, no loading spaces are required.

Green Area Ratio (GAR)

Under Subtitle G § 707.1, the GAR requirement in the MU-4 zone is 0.30. GAR will be provided through a combination of a green roof, landscaping and/or other measures to be determined at the time of permitting. The Project will satisfy the GAR to meet this requirement.

Inclusionary Zoning

Subtitle C § 1001.2(c) requires that a development would be subject to IZ requirements when the proposed project would have ten or more new dwelling units constructed concurrently or in phases, on contiguous lots or lots divided by an alley if such lots were under common ownership, control, or affiliation within one year before the application for the first building permit.

Pursuant to Subtitle C § 1003.1, a wood-framed/“stick-built” inclusionary development that does not employ Type I construction to construct a majority of dwelling units and which is located in a zone with a by-right height limit of 50 ft. or less the required to provide the greater of the below as IZ units:

- 10% of the gross floor area dedicated to residential use including penthouse habitable space;² or

² We note that pursuant to Subtitle C § 1003.9, “An inclusionary development’s entire residential floor area including dwelling units located in cellar space or enclosed building projections that extend into public space, shall be included for purposes of calculating the minimum set-aside requirements of Subtitle C §§ 1003.1 and 1003.2.”

- 75% of its achievable bonus density to inclusionary units plus an area equal to 10% of the penthouse habitable space.

Pursuant to Subtitle C § 1003.2, a steel/concrete inclusionary development that employs Type I construction to construct the majority of dwelling units is required to provide the greater of the below as IZ units:

- 8% of the gross floor area dedicated to residential use including penthouse habitable space; or
- 50% of its achievable bonus density to inclusionary units plus an area equal to 8% of the penthouse habitable space.

The current Median Family Income ("MFI") in the Washington Metropolitan Statistical Area is \$110,300 for a household of four. As detailed in Subtitle C § 1003.3, for-rent inclusionary units are reserved for families earning 60% of MFI. For-sale inclusionary units are reserved for families earning 80% of the MFI. Finally, inclusionary units resulting from the penthouse habitable space would be reserved for families earning equal to or less than 50% of the MFI. Further, the penthouse inclusionary zoning requirement could be met by a contribution into the housing trust fund consistent with the formula set out in Subtitle C § 1505.13 through § 1505.16.

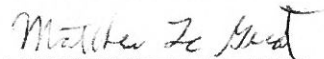
Here, the Project proposes a total of 33 to 35 dwelling units. Accordingly, the Project will be required to comply with IZ. The number of IZ units required for the Project will be determined when your client chooses a type of construction for the Project.

Conclusion

Based on the review of the attached plans and exhibits, the Project (either "Option 1" or "Option 2") on the Property complies with the MU-4 Zone District requirements, and the Project may be permitted as a matter-of-right. Accordingly, when the building permit application for the Project is filed, my office will approve drawings that are consistent with the "Option 1" or "Option 2" plans attached to this letter at Tab "B". Please let me know if you have any further questions.

This determination letter constitutes the first writing reflecting the administrative decision. Therefore, under Subtitle Y § 302.5 of the District's Zoning Regulation, no subsequent document, including a building permit or certificate of occupancy, can be appealed unless the document modifies or reverses this letter or reflects a new decision.

Sincerely,



Matthew Le Grant
Zoning Administrator

Attachments: Tab "A": Zoning Map
Tab "B": Preliminary Architectural Plans
Tab "C": Email from D.C. Department of Transportation

File: Det Let re 7700-7706 Georgia Ave NW to Mazo 1-3-18

TAB B